

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.10.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.26979 of 2017

M.Viswanathan

... Petitioner

Vs.

1.The District Collector,
Salem District, Salem.

2.The Sub-Collector,
Mettur, Salem District.

3.The Tahsildar,
Mettur Taluk,
Mettur Dam-I,
Salem District.

4.The Village Administrative Officer,
Koonandiyur Village,
Mettur Taluk, Salem District.

... Respondents

Prayer:-Writ petition is filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the Respondents to remove the encroachment in public pathway in S.F.Nos.93, 94 and 95 in Koonandiyur Village, Mettur Taluk, Salem District, by considering the petitioner's representation dated 01.02.2016 in accordance with law.

For Petitioner : Mr.D.Lakshmipathy

For Respondents : Ms.Vasudha Thiagarajan,
1 to 4 Additional Government Pleader

ORDER

(Order of the Court was made by M.M.SUNDRESH,J.)

This is a second round of litigation, though the earlier one was by way of a civil suit in O.S.No.85 of 2003 on the file of District Munsif, Mettur, seeking a decree for mandatory injunction to remove the encroachment made in the public road with a consequential prayer for permanent injunction. The said suit was decreed on 18.03.2010.

2. In the suit, a written statement has been filed by the respondents herein stating that they would take appropriate steps to evict the illegal encroachment by following the due process of law. It has been further stated that the suit property has been used as "pathway" by the people of the locality.

3. Despite the suit having been decreed and on receiving the representation of the petitioner dated 01.02.2016, neither the stand taken in the written statement nor the decree granted has been given effect to by the respondents herein. Therefore, the present writ petition has been filed.

4. Though the prayer as sought for cannot be granted inasmuch as the decree itself is by way of a direction to the respondents herein to take appropriate action as per law, the same being binding on them and being public authority, they should take action as per law. Since we dispose of the writ petition at the admission stage itself, we have no information on the finality of the decree granted. However, suffice it is to state that the respondents are bound to take appropriate action as per law, particularly, in the light of the stand taken by them in the suit and being parties to the decree, it binds them. Accordingly, with the above said observation, we direct the respondents, especially, the third respondent to pass appropriate orders on the representation of the petitioner dated 01.02.2016 and take appropriate action as per law after due notice to the petitioner as well as the persons, who have encroached, within a period of eight weeks from the date of receipt of a copy of this order. While passing the aforesaid order as directed above, the third respondent shall take into consideration any appeal if filed by the affected persons against the judgment and decree in O.S.No.85 of 2003 along with interim order.

5. The writ petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

raa

To

1. The District Collector,
Salem District, Salem.

2.The Sub-Collector,
Mettur, Salem District.

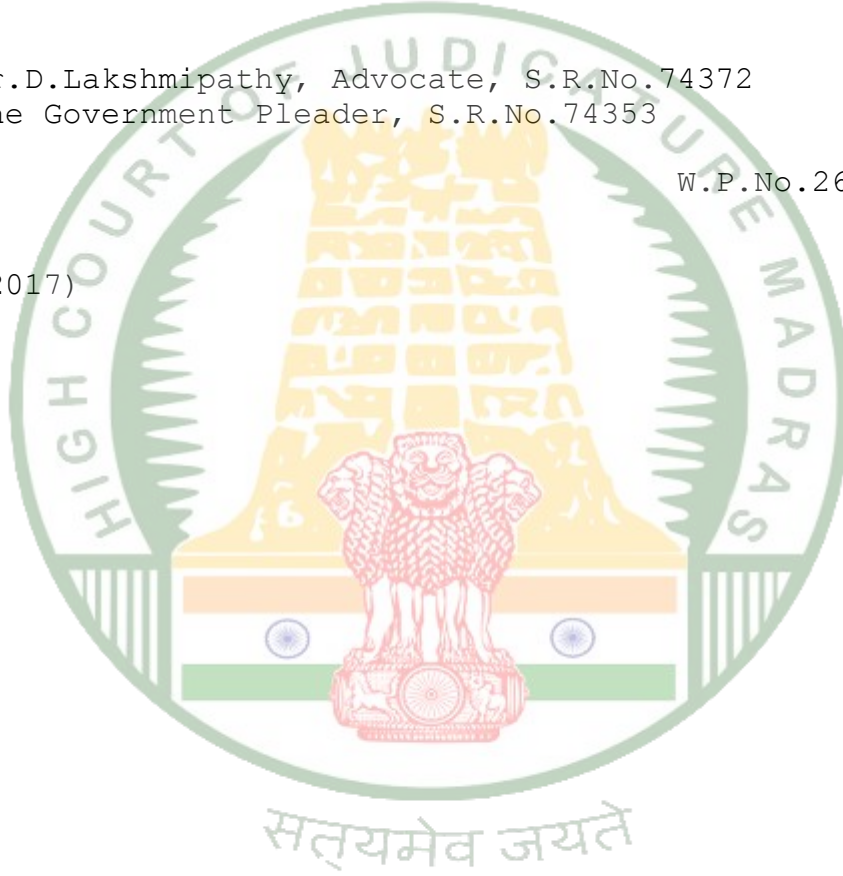
3.The Tahsildar,
Mettur Taluk,
Mettur Dam-I,
Salem District.

4.The Village Administrative Officer,
Koonandiyur Village,
Mettur Taluk, Salem District.

+1cc to Mr.D.Lakshmipathy, Advocate, S.R.No.74372
+1cc to the Government Pleader, S.R.No.74353

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AR V
CA(09/11/2017)



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